

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

15.5.04  
15.6.04

To:

see form PCT/ISA/220

# PCT

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/GB2004/003498

International filing date (day/month/year)  
13.08.2004

Priority date (day/month/year)  
15.08.2003

International Patent Classification (IPC) or both national classification and IPC  
H04J3/24

Applicant  
XYRATEX TECHNOLOGY LIMITED

### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/GB2004/003498

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**Box No. I Basis of the opinion**

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1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/GB2004/003498

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**Box No. II Priority**

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1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

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**Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	2-9,11,13,15-19,22,23
	No: Claims	1,10,12,14,20,21
Inventive step (IS)	Yes: Claims	3-9,16-19
	No: Claims	1,2,10-15,20-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

**Re Item V.**

- 1 The following documents are referred to in this communication:  
D1 : US 2003/002474 A1 (WONG DAVID ET AL) 2 January 2003 (2003-01-02)  
D2: US-A-6 058 109 (LECHLEIDER JOSEPH WILLIAM) 2 May 2000 (2000-05-02)
- 2 **INDEPENDENT CLAIMS 1 and 14**  
2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.  
Document D1 discloses (see paragraphs 15-22,53,54 and figure 2) a data merge unit for providing an interleaved data stream including data frames received on two or more input channels, where the data frames are arranged in time slots of the interleaved data stream, which include:
  - an input to receive data frames from two or more input channels;
  - a frame merge buffer arranged to received data frames and store them
  - an output generator to generate the interleaved data stream

The same reasoning applies, mutatis mutandis, to the subject-matter of claim 14
- 3 **INDEPENDENT CLAIMS 10,12,20 and 21**  
The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 10,12,20 and 21 is not new in the sense of Article 33(2) PCT (see D1 paragraphs 15-22,53,54 and figure 2).
- 4 **DEPENDENT CLAIMS 2,11,13,15,22,23**  
4.1 Although, at present, it seems that the combinations of features of claims 11,13,22 and 23 is new under Article 33(2) PCT, the distinguishing features do not add anything of inventive significance to D1 because they do not seem to solve any technical problem, and thus, they would be a matter of design option to the person skilled in the art, therefore the subject matter of claims 11,13,22 and 23 is not inventive, according to Article 33(3) PCT.  
4.2 The subject matter of dependent claims 2 and 15 is not inventive in the sense of Article 33(3) PCT (see D1 and D2 column 7 line 14 - column 8 line 18)

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.

**PCT/GB2004/003498**

- 5 The subject matter of claims 3-9 and 16-19 is new and inventive according to Articles 33(1) and 33(2) PCT because the combination of the features in there described are neither known from, nor rendered obvious by, the available prior art.

